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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-00328 - RMW
)	
Plaintiff,)	
)	STIPULATION AND []
v.)	ORDER EXCLUDING TIME
)	
PAULA LUNA ALVAREZ,)	
a/k/a PAULA LUNA,)	
a/k/a PAULA JUAREZ, and)	SAN JOSE VENUE
CARLOS CONTRERAS DEL CARMEN,)	
a/k/a CARLOS F. CONTRERAS,)	
a/k/a CARLOS F. DEL CARMEN,)	
)	
Defendants.)	
)	
)	

On November 16, 2009, the parties, counsel and Government counsel in this case appeared before the Court for status conference. A joint request was made for a settlement conference. Alternatively, a trial date was requested. The court set, at the defendants' request, March 15, 2010, for trial, March 11, 2010 for pretrial conference, and a motions deadline of February 1, 2010. In addition, the parties requested exclusions of time under the Speedy Trial Act to March 15, 2010.

1 On February 1, 2010, the case appeared on calendar for a motions hearing. The parties
2 did not appear as it was their impression that February 1 had been set as the *deadline* to file
3 motions, not for hearing. Government counsel happened to be in the courtroom on other cases
4 and so informed the court.

5 At that time the court continued the matter to February 22 for hearing on any motions
6 filed. On February 22, argument was heard on the motions, and the Government was granted
7 until March 5 to file supplemental points and authorities on the issue of whether the Government
8 should bear the defendants' costs for the foreign depositions which have been stipulated to. The
9 court again set a March 15 date, this time for argument on the matter of costs and status, and to
10 set a schedule for foreign depositions. Again the parties requested exclusions of time under the
11 Speedy Trial Act to March 15. The Government informed the court that it would supersede by
12 March 10, so that before depositions are scheduled the defendants may assess the new charges
13 and consider them in devising their strategies.

14 The defendants have continued their efforts to inspect and copy discovery, however that
15 process has been impeded by, among other things, equipment malfunctions. Moreover, witness
16 unavailability and other issues have made the Government's March 10 date to supersede
17 unrealistic.

18 The parties therefore request a continuance March 15, 2010 to April 5, 2010, at 9:00
19 a.m.,
20 in order for counsel to complete the discovery process, further their joint investigative efforts,
21 and be in a position to effectively prepare for depositions and trial. The Government will
22 supersede before the April 5 court date. For purposes of effective assistance and continuity of
23 counsel, the parties therefore agree and stipulate that an exclusion of time from March 15, 2010,

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to April 5, 2010, is appropriate.

SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: 3/5/2010

/s/
THOMAS M. O'CONNELL
Assistant United States Attorney

DATED: 3/5/2010

/s/
GEORGE BENETATOS
Counsel for DELCARMEN

DATED: 3/5/2010

/s/
ALEX PARK
Counsel for ALVAREZ

Accordingly, for good cause shown, the Court HEREBY ORDERS that the case is continued to April 5, 2010, at 9:00 a.m., and that time is excluded under the Speedy Trial Act from March 15, 2010, until April 5, 2010. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED.

DATED: 3/12/10


RONALD M. WHYTE
United States District Judge